84-297 (1)

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JUL 11 1984
ALEXANDER L. STEVAS,
CLERK

NO.____ 83-MAP-2

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1984

EDDIE A. KIRBY,

PETITIONER,

VS.

THE STATE OF WEST VIRGINIA,

RESPONDENT.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF WEST VIRGINIA

EDDIE A. KIRBY, ACTING AS
HIS OWN ATTORNEY, PRO SE,
BOX 71
BIG BEND, WV 26136
(304) - 354-6056
COUNSEL OF RECORD
FOR PETITIONER

13 pp

QUESTIONS PRESENTED FOR REVIEW

1. Is the State Supreme Court of Appeals of West Virginia allowed the right to deny the Petitioner his Constitutional rights in this or in any case, without changing the Constitutions of West Virginia and the United States?

2. Does a lease in West Virginia for oil and gas purposes constitute a contract when the Lessor and Lessee say it does?

3. When a Defendant asks for his Constitutional rights to be preserved intact, why or for what reason can any Judge deny the same?

4. What right did the Conservation Inspector have to tamper with the pond arrangements without witnesses, and then bring charges against Defendant? Contrary to facts?

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CASES:

ALEXANDER HAMILTON IN THE CASE WITH GEORGIA (STATE) CONTAINING THE FIRST TIME ANY STATE HAD ATTEMPTED TO CANCEL THE PROVISION WHEREBY THE STATE COULD IMPAIR THE OBLIGATION OF CONTRACT, ARTICLE 1, SECTION 10. The Constitution was upheld.

McCullough vs. Virginia, 172 U. S. 1898; Hubert vs. New Orleans 215 U. S. 170, 175 (1909)

ERRORS.

Now comes appellant, Eddie A. Kirby pro se acting as his own Attorney, and assigns errors upon the record, judgment and proceedings in Magistrate, Circuit, and Supreme Court of Appeals of West Virginia, as follows:

1 - The verdict and judgment are against the law in the case.

2 - Judgment is for excessive amount - $3000.00 - preparing to remove excessive clear rainwater from pond to a lower pond on Defendant's own property now allowed, being used.

3 - The Court's refusal to admit proper evidence requested by Defendant - to uphold his Constitutional rights.

4 - Courts erred in overriding Defendant's motion for new trial.

5 - Courts erred in entering judgment on record of case.

FACTS OF THE CASE.

Facts of case such that laws applying grant no right to arrest any person for polluting stream when no such occurs. Arrest of Defendant despotic, arbitrary. Then, as now, Defendant has Permit to drill on this property. Now drilling on this land.

Defendant prays for just decision, not granted now. Defendant stated in Court: "I intended (and did) follow instructions of my lease, no more, no less, this, my Constitutional right." Defendant's rights evaded, refused.

Drainage pipe installed partly on Friday (16th July). Warrant secured Sunday, July 18, 1982, before possible to build new pond. Completed later, now used. This action legal.

DEFENDANT'S CONTRACT OLDER.

Defendant's contract on this property written and executed in 1954. The law attacking him written by West Virginia Legislature 9 years later, in 1963. Defendant believes law is unconstitutional, that West Virginia Courts erred.

Defendant arrested illegally, prays the Highest COURT in the land will act to correct errors applicable hereto.

Defendant's Lease provides for "anything necessary, incident, or convenient for operation of Lease."

Defendant alleges Article 6, Clause 2 of United States Constitution being violated; that Bill of Rights and obligation of contract are impaired.

ARGUMENT.

RE: Alexander Hamilton had this to say: "pertaining to the first principles of natural justice and social policy, the Constitution of the United States, article first, section tenth, declares no state shall pass a law impairing the obligation of contract. This is equivalent to saying no state shall pass a law revoking, invalidating, or altering a contract. Every grant from one to another, whether the grantor be a state or an individual, is virtually a contract that the grantee shall hold and enjoy the thing granted against the grantor, and his representatives. It therefore appears to me that taking the terms of the CONSTITUTION in their large sense, and giving them effect according to the general spirit and policy of the provisions, the revocation of the grant by the act of the legislature of Georgia may justly be considered as contrary to the CONSTITUTION of the United States, and therefore null.

The Constitution of West Virginia is identical to United States Code, on this.

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 8th day of May, 1984, the following order was made and entered, to-wit:

State of West Virginia

vs.

Eddie A. Kirby

On a former day, to-wit, April 18, 1984, came the petitioner, Eddie A. Kirby, pro se, and presented to the Court his petition praying for an appeal from a verdict of the jury rendered on the 22d day of August, 1983, with the record therein accompanying the petition, which being seen and inspected by the Court the appeal prayed for is refused.

A True Copy

FILED
CIRCUIT COURT

5-14-84

Attest: _____
S George W. Singleton
Clerk Supreme Court
of Appeals

I hereby certify that the transcript within meets the requirements of the Code of the State of West Virginia, 51-7-4, and all rules pertaining thereto as promulgated by the Supreme Court of Appeals.

Signed: Karen S. Holub

Dated: October 10, 1983

STATE OF WEST VIRGINIA,

COUNTY OF WIRT, SS:

I, Joseph M. Hanlin, Judge of the Circuit Court of Wirt County, West Virginia, do hereby certify that the foregoing transcript contains all the proceedings had and reported, as requested, at the jury trial on the 22nd day of August, 1983, in the action of STATE OF WEST VIRGINIA, Plaintiff vs. EDDY KIRBY, Defendant, Case No. 83-MAP-2.

TESTE: This 13th day of October, 1983.

Signed: Joseph M. Handlan, Judge

CERTIFICATE OF SERVICE.

I HEREBY CERTIFY THAT ON THE _____ DAY OF AUG. 22 4, 1984, I SERVED THE FOREGOING WRITING UPON THE ATTORNEY GENERAL OF WEST VIRGINIA, CHAUNCEY H. BROWNING, ADDRESSED TO HIM, THE PLAINTIFF HERETO, BY MAILING THREE TRUE COPIES THEREOF, BY UNITED STATES CERTIFIED MAIL, TO THE STATE CAPITOL BUILDING, CHARLESTON WEST VIRGINIA 25305.

Eddie A. Kirby Pro Se

ACTING AS HIS OWN ATTORNEY,

BOX 71

BIG BEND, WEST VIRGINIA 26136.

(304) 354-6056.

COUNSEL OF RECORD

FOR PETITIONER